Hearing Date and Time: January 27, 2010 at 2:00 p.m, Objection Date and Time: January 21, 2010 at 4:00 p.m.

UNITED STATES BANKRUPTCY COURT	
EASTERN DISTRICT OF NEW YORK	
x	
	Chapter 11
In re:	Case No. 09-78585
GLOBAL CONTAINER LINES LTD., et al.	(Jointly Administered with 09-78584
	Case Nos. through 09-78590)
Debtors. Jointly Administered	
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x	

SEACASTLE CONTAINER LEASING LLC RESPONSE TO DEBTORS' MOTION (NOW) TO REJECT SEACASTLE LEASES AND CONTAINERS

Seacastle responds to debtor's rejection motion (Docket No. 86), repeating and reasserting Seacastle's December 7, 2009 Motion directing Global to surrender Seacastle's containers (Docket No. 46).

Only now does Global say it doesn't need the Seacastle containers, although it admittedly has used many of them post-petition - *see*, Exhibit A hereto, the list of "active" containers which Global used post-petition, shipboard "stuffed with cargo."

If there were any Seacastle leases remaining post-petition to reject, 11 U.S.C. § 365 unequivocally requires Global to pay for Global's post-petition use and return of these containers. As Seacastle has pointed out, however, "use" of containers isn't only shipboard: it is having the containers available for use, given that a containerized vessel requires a volume of containers three times its capacity (in general, one container being unloaded ashore, one container aboard ship, one container awaiting loading) to operate. "Use" that Global must pay for post-petition, is not simply of the 75 containers that Exhibit A lists, but of all of Seacastle's containers that Global has insisted on holding, post-petition.

As Seacastle on December 7th set out, however, Seacastle well before the petition date terminated the leases. There were at the time of the petition, no leases to reject: Seacastle had terminated them. Global after termination, pre- or post-petition, had no right whatsoever to hold the containers or use them. Global's failure to release the Seacastle containers constituted a post-petition trespass to and conversion of Seacastle's containers, making Global liable to post-petition damages. "[C]laims for [post-petition] torts may be accorded priority as an administrative expense." SunTrust Bank v. Roberson (In re Baseline Sports, Inc.), 393 B.R. 105, 130 (E.D. Va. 2008). See also Reading Co. v. Brown, 391 U.S. 471, 477–85 (1969); Pa. Dept' of Envtl. Res. v. Tri-State Clinical Labs, Inc., 178 F.3d 685, 691 (3d Cir. 1999); Ala. Surface Mining Comm. v. N.P. Mining Co., 963 F.2d 1449, 1453 (11th Cir. 1992); Kapernekas v. Continental Airlines, Inc. (In re Continental Airlines), 148 B.R. 207, 213 (D. Del. 1992).

It is undisputed that Seacastle since well before the petition date has been demanding Global, directly and through Global's counsel here, to release and return Seacastle's containers.

Only now - despite those months of demand - has Global relented. Global's retention and use of Seacastle's containers without paying for them is and was wrongful. Global owes Seacastle damages, in amounts to be determined, as Seacastle now attempts to recover its containers, which Global wrongfully used and held. This Court certainly should, at the earliest time, confirm Seacastle's termination of its leases, reserving the question of the damage that Global

[&]quot;Conversion occurs when a defendant exercises unauthorized dominion over personal property in interference with a plaintiff's legal title or superior right of possession." *LoPresti v. Terwilliger*, 126 F.3d 34, 41 (2d Cir. 1997). More relevant to the present case, "[w]hen possession of property is lawful at the outset, as it was here, *conversion occurs when the possessor refuses the owner's demand for return of the property.*" *Snell v. Short*, 544 F.2d 1289, 1291 (5th Cir. 1977) (emphasis added).

must pay for Global's wrongful use, and refusal to return and release, Seacastle's containers.

WHEREFORE, Seacastle respectfully requests that in response to the Global rejection motion (Docket No. 86), as well as to Seacastle's original motion (Docket No. 46) this Court order as follows:

- (1) Declaring that inasmuch as Global's leases with Seacastle were properly terminated bybefore the filing of Global's petition, there were no existing leases at the time of the petition filing, none to "reject" and therefore no interest in such leases could be part of Debtor's estate;
- (2) Directing that Global cease using Seacastle's containers and return them immediately to Seacastle;
- (3) Directing Global to immediately state with detail the locations of Seacastle's containers and provide a full accounting of its use of Seacastle's containers since the Leases were terminated;
 - (4) Entering other and further proper relief in Seacastle's favor.

Dated: January 20, 2010.

Respectfully Submitted,

/s/ J. Stephen Simms

J. Stephen Simms
Simms Showers LLP
20 South Charles Street
Suite 702
Baltimore, Maryland 21201
Telephone 410-783-5795
Facsimile 410-510-1789
jssimms@simmsshowers.com

Counsel for Creditor Seacastle Container Leasing LLC ("Seacastle")

CERTIFICATE OF SERVICE

I hereby certify that on January 20, 2010 I caused the foregoing to be filed on the Court's CM/ECF system for service on all record counsel and the United States Trustee.

/s/ J. Ste	phen Simms

No.	Contract	Container No.	TP	CURRENT LOCATION	Activity	AWAITING BERTH FOR VESSEL	Destination
1	IP 3507	GCIU205020	20'DV	KARACHI	Stuffed with cargo	G.Prosperity	Mombasa
2	IP 3507	GCIU205081	20'DV	KARACHI	Stuffed with cargo	G.Prosperity	Mombasa
3	IP 3507	GCIU205105	20'DV	KARACHI	Stuffed with cargo	G.Prosperity	Mombasa
4	IP 3507	GCIU205158	20'DV	KARACHI	Stuffed with cargo	G.Prosperity	Mombasa
5	IP 3507	GCIU205169	20'DV	KARACHI	Stuffed with cargo	G.Prosperity	Mombasa
6	IP 3507	GCIU205230	20'DV	KARACHI	Stuffed with cargo	G.Prosperity	Mombasa
7	IP 3507	GCIU205233	20'DV	KARACHI	Stuffed with cargo	G.Prosperity	Mombasa
8	IP 3507	GCIU205252		KARACHI	Stuffed with cargo	G.Prosperity	Mombasa
9	IP 3507	GCIU205266	20'DV	KARACHI	Stuffed with cargo	G.Prosperity	Mombasa
10	IP 3507	GCIU205282		KARACHI	Stuffed with cargo	G.Prosperity	Mombasa
11	IP 3507	GCIU205355		KARACHI	Stuffed with cargo	G.Prosperity	Mombasa
12	IP 3507	GCIU205362		KARACHI	Stuffed with cargo	G.Prosperity	Mombasa
13	IP 3507	GCIU205368		KARACHI	Stuffed with cargo	G.Prosperity	Mombasa
14	IP 3531	GCIU205427		KARACHI	Stuffed with cargo	G.Prosperity	Mombasa
15	IP 3531	GCIU205436		KARACHI	Stuffed with cargo	G.Prosperity	Mombasa
16	IP 3531	GCIU205440		KARACHI	Stuffed with cargo	G.Prosperity	Mombasa
17	IP 3531	GCIU205455		KARACHI	Stuffed with cargo	G.Prosperity	Mombasa
18	IP 3531	GCIU205498		KARACHI	Stuffed with cargo	G.Prosperity	Mombasa
19	IP 3531	GCIU205530		KARACHI	Stuffed with cargo	G.Prosperity	Mombasa
20	IP 3531	GCIU205538		KARACHI	Stuffed with cargo	G.Prosperity	Mombasa
21	IP 3507	GCIU205001		KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
22	IP 3507	GCIU205001		KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
23	IP 3507	GCIU205010		KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
24	IP 3507	GCIU205018		KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
25	IP 3507	GCIU205019		KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
26	IP 3507	GCIU205048		KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
27	IP 3507	GCIU205057		KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
28	IP 3507	GCIU205066		KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
29	IP 3507	GCIU205073		KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
30	IP 3507	GCIU205075		KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
31	IP 3507	GCIU205000		KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
32	IP 3507	GCIU205111		KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
33	IP 3507	GCIU205111		KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
34	IP 3507	GCIU205131		KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
35	IP 3507	GCIU205143		KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
36	IP 3507	GCIU205156		KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
37	IP 3507	GCIU205157		KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
38	IP 3507	GCIU205161		KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
39	IP 3507	GCIU205168		KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
40	IP 3507	GCIU205182		KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
41	IP 3507	GCIU205195	20'DV	KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
42	IP 3507	GCIU205199	20'DV	KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
43	IP 3507	GCIU205207	20'DV	KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
44	IP 3507	GCIU205225	20'DV	KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
45	IP 3507	GCIU205227	20'DV	KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
46	IP 3507	GCIU205238	20'DV	KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
47	IP 3507	GCIU205242	20'DV	KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
48	IP 3507	GCIU205256	20'DV	KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
49	IP 3507	GCIU205268	20'DV	KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
50	IP 3507	GCIU205279	20'DV	KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
51	IP 3507	GCIU205280	20'DV	KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
52	IP 3507	GCIU205293	20'DV	KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
53	IP 3507	GCIU205299		KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
54	IP 3507	GCIU205303		KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
55	IP 3507	GCIU205316	20'DV	KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
56	IP 3507	GCIU205325	20'DV	KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
57	IP 3507	GCIU205336	20'DV	KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
58	IP 3507	GCIU205369	20'DV	KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
59	IP 3531	GCIU205405	20'DV	KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
60	IP 3531	GCIU205415	20'DV	KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
61	IP 3531	GCIU205425	20'DV	KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
62	IP 3531	GCIU205466	20'DV	KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
63	IP 3531	GCIU205469	20'DV	KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
64	IP 3531	GCIU205484	20'DV	KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
65	IP 3531	GCIU205485		KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
66	IP 3531	GCIU205505		KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
67	IP 3531	GCIU205512		KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
68	IP 3531	GCIU205532		KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
69	IP 3531	GCIU205534		KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
70	IP 3531	GCIU205537		KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
71	IP 3531	GCIU205543		KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
72	IP 3531	GCIU205567		KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
73	IP 3531	GCIU205577		KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
74	IP 3531	GCIU205581		KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
75	IP 3531	GCIU205591		KARACHI	Stuffed with cargo	G.Prosperity	Zanzibar
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